IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

CRP.No. 1055 of 2006()

OPELE.169/2004 of ADDL.DISTRICT COURT (ADHOC)-II, ERNAKULAM

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REVN. PETITIONER: RESPONDENT

KERALA STATE ELECTRICITY BOARD,
REP. BY ITS SECRETARY, VYDYUTHI BHAVAN,
PATTOM, THIRUVANANTHAPURAM.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

RESPONDENT: PETITIONER

SRI. GEORGE, AGED 55 YEARS,
S/O. VARGHESE, KALLARAKKAL,
NELSON MANDELA ROAD, MULAMTHURUTHY.

BY ADV. SRI.A.RAMACHANDRAN NAIR

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 09/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.Krishnan, J.

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C.R.P.No.1055 of 2006

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Dated this the 9th day of October, 2007.

ORDER

This revision petition is preferred against the award of the Additional District Judge (Adhoc - II), Ernakulam in O.P.(Ele) 169 of 2004. By the said award, the petitioner was awarded an additional compensation of Rsd.24,523/- with 6% interest from the date of the O.P. till realisation and costs.

2. The matter was decided on the basis of a Full Bench decision of this Court reported in **Kumba Amma** v. **K.S.E.B.** - 2000(1) K.L.T. 542. This matter was taken up before the Apex Court in **K.S.E.B.** v. **Livisha** - 2007(3) K.L.T. 1 and the Apex Court held that there cannot be uniform facts and each case has to be decided on the facts and circumstances of each case. The Apex Court held thus:

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to

> whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

3. So in the light of the above judgment, the matter requires fresh consideration at the hands of the court below. Therefore, the order under challenge is set aside and the court below is directed to dispose of the matter in the light of the enunciated principles laid down in **K.S.E.B.** v. **Livisha** - 2007(3) K.L.T. 1. Parties are directed to appear before the court below on 13.11.2007.

Civil Revision Petition is disposed of accordinlgy.

M.N.Krishnan,
Judge.

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